

FOR THE EASTERN DISTRICT OF TEXAS

TYLER DIVISION

MARIO FRAGA, #727360

§

VS.

§

CIVIL ACTION NO. 6:11cv700

DIRECTOR, TDCJ-CID

§

ORDER ADOPTING REPORT AND RECOMMENDATION

The above-entitled and numbered civil action was heretofore referred to United States Magistrate Judge Judith K. Guthrie. The Report of the Magistrate Judge, which contains proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and no objections thereto having been timely filed, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct, and adopts same as the findings and conclusions of the Court. It is therefore

ORDERED that the Director's Motion to Dismiss (docket entry #6) is hereby **GRANTED IN PART** and **DENIED IN PART** to the extent that this Court does not have jurisdiction have jurisdiction to hear the merits of Petitioner's petition, but that the petition is not dismissed at this time in order to permit Petitioner a right of review on the merits without imposition of the statute of limitations under 28 U.S.C. § 2241(d)(1). It is further

ORDERED that this petition is hereby **TRANSFERRED** to the Northern District of Texas, Lubbock Division, for further determination.

SIGNED this 10th day of May, 2012.



MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE